

### **Remarks**

Claims 1-5, 9, and 12-14 are pending in this application. Claim 8 is cancelled herein. Claim 1 is presently amended. The Examiner has rejected the pending claims under 35 U.S.C. § 103(a) as being unpatentable over Lilly et al. (U.S. Patent No. 5,787,000) in view of Layden (“A Rapidly Changing Landscape”) and further in view of Manugistics5 (“Manugistics Introduces Industry’s Only Extended Supply Chain Management Solution.”).

Applicants have amended the paragraph “Cross-Reference to Related Applications” to reflect the issuance of the related patent by the United States Patent & Trademark Office.

#### **A. Rejections under 35 U.S.C. 103 (a) of Claims 1-5, 9, and 12-14**

The Examiner has rejected the pending claims as being obvious over the combination of Lilly, Layden, and Manugistics5. A prima facie case of obviousness requires a showing that all of the claim limitations of the rejected claims are taught or suggested by the prior art. Manual of Patent Examining Procedure 2143 and 2143.03. “All words of a claim must be considered in judging the patentability of that claim against the prior art.” In re Wilson, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (CCPA 1970). The pending claims are not obvious over the cited combination of Lilly, Layden, and Manugistics5 because the combination fails to teach or suggest all of the elements of the Applicants’ claims. Specifically, the cited combination fails to teach or suggest at least that the step of adding a delivery to the material delivery schedule comprises adding the delivery to the material delivery schedule at a material delivery time prior to the start time, as required by the claims of the present invention.

In certain embodiments of the method of the present invention, a work schedule is generated in response to an outstanding customer order, and *after* the work schedule is generated,

a delivery schedule is also generated in response to the outstanding customer order such that the delivery of material is scheduled prior to the time it is needed according to the work schedule. (Spec., Figure 3 and [0057]) Independent claim 1, as amended, specifically requires that the step of adding a delivery to the material delivery schedule comprises adding the delivery to the material delivery schedule at a material delivery time prior to the start time of the work added to the work schedule. Thus, it is clear that a work schedule having work added to a start time governs when a delivery may be added to the material delivery schedule; i.e., the delivery must be added to the delivery schedule for a time prior to the start time of the work in the work schedule.

The Examiner points only to Lilly as teaching this requirement of the claims. The Examiner states that, in Lilly, if all materials are available, work may be scheduled; otherwise, a work order may need to be rescheduled based on the lead time of materials. (Office Action, p.13) The Examiner also states that current inventory levels and a *material delivery schedule* are evaluated in order to *assess scheduled work orders* and their ability to be completed as scheduled. (Office Action, p.3) The Examiner points to Lilly as teaching that a work schedule is affected by a material delivery schedule. (Office Action, p.4) However, the claims, as amended, require that the step of adding a delivery to the material delivery schedule is performed **based on (prior to) the start time of the work added to a work schedule**. That is, a work schedule is created in response to a customer order, work is added to the work schedule at a start time in generating the work schedule, and a delivery of material is added to a material delivery schedule **prior to the start time of the work in the work schedule**. Lilly fails to teach or suggest the step of adding a delivery to a material delivery schedule comprises scheduling the delivery prior to the start time of the work; at best, the Examiner has discussed the possibility that Lilly

discusses that the scheduling of work (as opposed to a delivery) is done based on a material delivery schedule. This is not the same as the requirements of the pending claims.

The Examiner does not point to Layden or Manugistics5 as teaching or suggesting these elements, and as such, Layden and Manugistics5 fail to remedy the deficiencies of Lilly. Thus, a prima facie case of obviousness has not been established with respect to the claims and the combination of Lilly, Layden, and Manugistics5. Applicants respectfully request that the claims be passed to issuance.

**B. No Waiver**

All of Applicants' arguments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the references. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are sufficient to overcome the obviousness rejections.

**Conclusion**

Applicants respectfully submit that claims 1-5, 9, and 12-14 should be passed to issuance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tammy M. Pennington', written over a horizontal line.

Tammy M. Pennington  
Registration No. 61,223

Baker Botts L.L.P.  
910 Louisiana St.  
One Shell Plaza  
Houston, Texas 77002-4995  
(713) 229-1972

Baker Botts Docket Number: 016295.1099

Date: July 28, 2008